

Application No: 10/692,770

Docket No.: TKX-7469US0

**REMARKS****I. Overview**

Claims 17-36 are pending in the present application. Claims 1-16 were previously canceled, claim 17 has been amended. No new matter has been added. Applicant respectfully requests reconsideration of the claims in view of the following remarks.

The issues raised by the Examiner in the current Office Action dated December 23, 2008 ("Office Action" or "OA") are as follows:

- Claim 17 has been objected to for informalities;
- Claim 17 has been rejected under U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter;
- Claims 17-19, 22, 25, 26, 28-31, 34 and 35 have been rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by U.S. Patent No. 6,304,915 to Nguyen, et al., (hereinafter "Nguyen");
- Claims 20, 21, 23, 24, 32 and 33 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Nguyen in view of U.S. Patent Publication No. 2003/0074393 to Peart, (hereinafter "Peart"); and
- Claims 27 and 36 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Nguyen in view of U.S. Patent Publication No. 2003/0112790 to Hayduk, et al., (hereinafter "Hayduk").

Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal in light of the amendments and remarks presented herein.

**II. Claim Amendments**

Claim 17 has been amended to correct a typographical error by changing "begin" to "being." Claim 17 has been amended to specify that a display interface on a protocol tester is modified. No new matter has been added by these amendments, which are supported in the original specification at least at page 5, line 19 to page 6, line 26.

**III. Claim objections**

Claim 17 is objected to as containing a typographical error. Applicant has amended claim 17 to correct the typographical error. Applicant respectfully requests that that claim objection be withdrawn and the claim passed to allowance.

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**IV. Rejection under 35 U.S.C. § 101**

Claim 17 stands rejected under § 101 as being directed to non-statutory subject matter. Applicant traverses the rejection under § 101. Claim 17 as originally presented is clearly tied to a protocol tester, which is physical device and is statutory subject matter. In an attempt to further clarify the relationship between the steps of claim 17 and the protocol tester, Applicant has amended the claim to specify that a "display interface on the protocol tester" is modified by the selecting steps. Both protocol tester and a display interface are physical machine and such modification is concrete, useful and tangible result. Accordingly, Applicant respectfully requests that the rejection under § 101 be withdrawn and the claim passed to allowance.

**V. Rejections under 35 U.S.C. § 102**

Independent claims 17 and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the Nguyen patent. Applicant traverses this rejection because Nguyen fails to disclose each and every element of the pending independent claims.

Claim 17 recites:

A method of setting up a communication procedure that is executable on a protocol tester using message sequence charts (MSC) to graphically display the communication procedure between two instances, comprising:

creating a configuration file to be used by the protocol tester, the configuration file including one or more new functions that are not available in an original version of the protocol tester provided by a manufacturer, . . . .

Claim 29 recites:

A protocol tester for testing a communication procedure, comprising:

means for creating a configuration file to be used by the protocol tester, the configuration file including one or more new functions that are not available in an original version of the protocol tester provided by a manufacturer, . . . .

**A. Nguyen does not disclose a protocol tester**

Claims 17 clearly requires steps that performed in conjunction with or by a protocol tester, and claim 29 clearly requires components of a protocol tester. The Nguyen patent is directed to a payment gateway system for facilitating secure transmission of data such as encrypted payment requests from merchants. (Abstract). Nguyen fails to disclose a test device of any kind and, in particular, fails to disclose a protocol tester.

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**B. Nguyen fails to disclose creating the claimed configuration file**

Independent claims 17 and 29 require a step of, or means for, “creating a configuration file to be used by the protocol tester, the configuration file including one or more new functions that are not available in an original version of the protocol tester provided by a manufacturer.”

As noted above, Nguyen fails to disclose a protocol tester and, therefore, does not disclose a configuration file “to be used by the protocol tester.”

The Office Action cites column 35, lines 19-29 of Nguyen as teaching the configuration file. OA at 4. Although the cited text includes the words “configuration file,” Nguyen’s configuration file is for a virtual point of sale (VPOS) terminal cartridge. The cited Nguyen disclosure states:

The VPOS terminal cartridge has a configuration file that allows the user to specify the content-type as well as the language to be used for a cartridge. The first release of the VPOS terminal cartridge supports one content-type and language for each server.

This disclosure merely teaches that a content-type and language is available in a first release of the VPOS terminal cartridge. It does not teach a configuration file that includes one or more new functions that are not available in an original version of the protocol tester provided by a manufacturer. There is no suggestion in Nguyen that a configuration file can be modified or added to provide new functions as required in the claims. Moreover, the “content-type and language” specified in Nguyen’s configuration file are merely information or data, not “functions” as required in the claims.

The Office Action further cites Nguyen at column 8, lines 28-46. OA at 4-5. It is unclear why this text is cited for the “configuration file” element. The disclosure in column 8 appears to be an example of an object or class used in object oriented programming. This example is completely unrelated to configuration file for a protocol tester and, in fact, appears to be unrelated to the VPOS terminal cartridge and payment gateway that are the focus of the rest of the Nguyen patent.

**C. Nguyen fails to teach the elements of the claimed configuration file**

Claims 17 and 29 further recite:

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the configuration file comprising for each of the new functions:

- a name for the new function;
- a data type for the new function;
- an identification of a new description file, the description file comprising code to be used to provide the new function; and
- an identification of a new graphic symbol file for the new function, the graphic symbol file corresponding to a new graphic symbol to be displayed on the protocol tester to allow selection of the new function when setting up the communication procedure;

The Office Action cites portions of Nguyen at columns 57 and 58 as teaching the “name for the new function” element. OA at 5-6. It is unclear what disclosure in the cited text is intended to be “a name for the new function” within the claimed configuration file. The cited text at columns 57-58 uses the words “name” and “function” in the context of a message being decrypted at function block 1884 and the PDU parsing the message into name/value pairs. Applicant submits that this disclosure fails to teach a name for a new function. Moreover, the cited text at columns 57-58 is unrelated to the previously cited text at columns 8 and 35, in which the Office Action purports to find the claimed configuration file.

The Office Action cites portions of Nguyen at columns 3 and 4 as teaching the “data type for the new function” element. OA at 6. It is unclear what disclosure in the cited text is intended to be “a data type for the new function” within the claimed configuration file. The cited text at columns 3-4 uses the phrase “data type” in the context of types of data entered by merchants and different discount rates offered to merchants who comply with data types. Applicant submits that this disclosure fails to teach a data type for a new function. Moreover, the cited text at columns 3-4 is unrelated to the previously cited text at columns 8 and 35, in which the Office Action purports to find the claimed configuration file.

The Office Action cites portions of Nguyen at columns 83 and 84 as teaching the “identification of a new description file” element. OA at 6-7. It is unclear what disclosure in the cited text is intended to be “an identification of a new description file” within the claimed configuration file. The cited text at columns 83-84 is directed to a Data Manager for storing data items and records and to files comprising a “wallet” containing encrypted payment information. Applicant submits that this disclosure fails to teach an identification of a new description file.

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Moreover, the cited text at columns 83-84 is unrelated to the previously cited text at columns 8 and 35, in which the Office Action purports to find the claimed configuration file.

The pending claims further require that the description file comprise “code to be used to provide the new function.” The cited disclosure at columns 83-84 fails to teach code for providing a new function as required in the independent claims.

The Office Action cites portions of Nguyen at columns 35-37 as teaching the “identification of a new graphic symbol file for the new function” element. OA at 7-9. It is unclear what disclosure in the cited text is intended to be the “new graphic symbol file” within the claimed configuration file. The cited text at columns 35-37 discloses a graphical user interface, but fails to teach a graphic symbol file.

Claims 17 and 29 further require that the graphic symbol file corresponds to “a new graphic symbol to be displayed on the protocol tester to allow selection of the new function when setting up the communication procedure.” The cited text at columns 35-37 does not related to setting up a communication procedure or to the selection of a new function.

#### **D. Nguyen fails to teach selecting abstract communication interfaces**

Claims 17 and 29 recite a step of, or means for, “selecting abstract communication interfaces of the protocol layer for the communication procedure. The Office Action cites column 13 as teaching this element. OA at 10. The cited disclosure refers to Nguyen’s Figure 1B, which is an extremely simple diagram showing customer 120 linked to merchant 130 by interface 150, and merchant 130 linked to payment gateway 140 by interface 170. Neither the cited text nor Figure 1B disclose “abstract communication interfaces of the protocol layer.” The cited text teaches that the SSK protocol may be used on interface 150 and the SET protocol may be used on interface 170, there is no disclosure of “selecting abstract communication interfaces” within the SSL or SET protocols.

#### **E. Conclusion**

The Nguyen reference fails to teach numerous elements of the pending independent claims, including, for example, a protocol tester, a configuration file including a new function, a name or data type for the new function, a new description file, a new graphic symbol, or abstract communication interfaces of a protocol layer. Accordingly, Nguyen does not anticipate claims

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17 or 29 under § 102(b). Applicant respectfully requests that the rejection under § 102(b) be withdrawn and the claims passed to allowance.

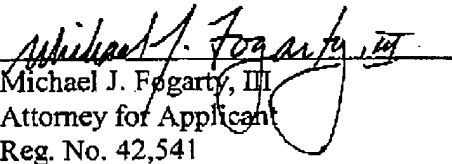
Claims 18-28 and 30-36 depend from independent claims 17 and 29, respectively, and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicant's attorney at 972-732-1001 so that such issues may be resolved as expeditiously as possible. No fee is believed due in connection with this filing. However, should one be deemed due, the Commissioner is hereby authorized to charge, or credit any overpayment, Deposit Account No. 50-1065.

Respectfully submitted,

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Date

  
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